



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

April 16, 1958

Honorable Price Daniel  
Governor of Texas  
Capitol Station  
Austin, Texas

Opinion No. WW-417.

Re: Are the monies appropriated under Senate Bill 471, Acts, 55th Legislature, Regular Session, 1957, Chapter 502, page 1465, for the Texas Traffic Safety Council available for use of the Council, despite the fact that the bill was not submitted to the Comptroller for certification?

Dear Governor Daniel:

We have received your letter of April 4, in which you state the Legislature passed Senate Bill 471, Acts 55th Legislature, Regular Session, 1957, Chapter 502, page 1465, giving the Texas Traffic Safety Council the following authority:

". . .

"Sec. 7. The Texas Traffic Safety Council may accept gifts, grants, or donations of money, or of property, from private sources to effectuate the purpose of this Act. Any and all funds so donated shall be placed in the State Treasury in a special fund called the Traffic Safety Fund and shall be expended in the same manner as other State monies are expended, upon warrants drawn by the Comptroller upon the order of the Council. Such monies are hereby appropriated for the purpose of carrying out this Act."

You further state that the Comptroller has notified the Council that in as much as Senate Bill 471 was not passed to him for certification, that none of the funds received as donations and deposited in the State Treasury is appropriated for this biennium.

Honorable Price Daniel, Page 2 (WW-417).

You ask our opinion on two questions, substantially as follows:

1. Is it necessary that a bill containing an appropriation of only this type be passed to the Comptroller for his certification?

2. If the answer is "No", then is the Texas Traffic Safety Council authorized to expend any donated funds deposited in the Treasury during this biennium?

It is clear that the Legislature appropriated no money to such fund or for such purposes, except to the extent that funds were available therein from specific donations. If there are no donations, nothing is appropriated. If there are donations, that and no more is appropriated.

Section 49a of Article III of the Constitution of Texas reads in part as follows:

" . . . From and after January 1, 1945, save in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each house, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. From and after January 1, 1945, no bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses his certificate thereon, showing that the amount appropriated is within the amount estimated to be available in the affected funds. . . ."

If Senate Bill 471 had been submitted to the Comptroller for certification, the only action he could have taken would have been to certify that funds for paying this appropriation would be available. In keeping with the import of the holding of this Department in Opinion No. WW-416 and authorities therein cited, we wish to advise you that, in our opinion, Senate Bill 471, appropriating to the Texas Traffic Safety Council accepted contributions and donations deposited in the special fund, known as the Traffic Safety Fund, for the specified purposes, is not such an appropriation bill requiring certification by the Comptroller of Public Accounts.

Honorable Price Daniel, Page 3 (WW-417).


In answer to your questions, it is not necessary that a bill containing an appropriation of only this type be passed to the Comptroller for his certification, and the Texas Traffic Safety Council is authorized to expend any such donated funds deposited in the State Treasury during this biennium.

SUMMARY

The funds received by the Texas Traffic Safety Council in the form of donations and contributions, which were appropriated under Senate Bill 471, are available to the Texas Traffic Safety Council, despite the fact that Senate Bill 471 was not submitted to the Comptroller for certification, such certification not being required of this type of appropriation.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By   
Tom I. McFarling  
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TIM:wb:pf

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

J. Mark McLaughlin  
J. Arthur Sandlin  
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REVIEWED FOR THE ATTORNEY GENERAL

By: W. V. Geppert.